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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,332

01/26/2004

Takashi Ikeda

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER

AUGUSTIN, EVENS J

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

04/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/765,332	Applicant(s) IKEDA ET AL.	
	Examiner Evens J. Augustin	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/12/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. This is in response to an amendment filed on March 9th, 2009. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claims 1-7, 9-11, 13 and 15-19 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States. . . .

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 9-11, 13 and 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenner et al. (U.S 5956716).

4. As per claims 1-7, 9-11, 13 and 15-19, Wiser et al. disclose a computer system that provides a secure online music distribution system that provides consumers with flexibility and ease of use in the selection, previewing, downloading, and transporting of audio and other digital media over the Internet, and that provides for security of the media throughout the distribution system. The computer system comprises of client/server architecture with a clients computer

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system connected with a server online music distribution system that provides consumers with flexibility and ease of use in the selection, previewing, downloading, and transporting of audio and other digital media over the Internet, and that provides for security of the media throughout the distribution system (column 3, lines 5-20), doing the following:

- A. (*"sending an order for requesting a purchase or a preview of a content of a music performance to a server"*)—User sending a request to server to view a video clip (C22, L66-67, C23, L1-2)— *Claims 1, 5, 19*
- B. (*"receiving song data from the server in response to the order, the song data being composed of performance data and order information corresponding to the performance data, performance data representing the content of the music performance and containing reproduction limiting information for limiting a reproduction state of the content of the music performance, the order information indicating at least either a purchase or a preview associated with a usage right of the content of the music performance"*) —Server maintains information about the content (C22, L20-45), used to give users a content guide from the server (C23, L12-24);
- C. (*"determining whether the song data has already been stored in the storage"*) -- Determines if the desired content is already stored locally, (C24, L3-6, C25, L3-5);
- D. (*"rewriting the order information contained in the stored song data with the order information contained in the received song data when the step of determining determines that the song data has already been stored"*) – C27, L23-30;

- E. *and writing the received song data into the storage when the step of determining determines that the song data is not stored in the storage") – (C5, L8-15);*
- F. *("referring to the order information in the song data containing the performance data to be reproduced, for identifying the usage right of the content of the music performance in terms of the purchase or preview;") – If user's subscription rights are sufficient, then the clip will be downloaded (C6, L45-50, C24, L15-17);*
- G.
- H. The system allows a potential user to **preview a portion of a song** (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system -*Claims 1, 5, 19;*
- I. *("specifying a portion of the performance data according to the read reproduction limiting information when the identified usage right indicates the preview") – C29, L43-47. -Claims 1, 5, 19;*
- J. *("reproducing only the specified portion of the performance data and not reproducing other portions of the content of the performance data than the specified portion") -- C29, L43-47- Claims 5, 19;*
- K. System limiting the reproduction/copies of content (C22, L20-45) – *Claims 1, 5, 9;*
- L. *"specifying a channel among a plurality of channels usable for reproducing the music performance" – C12, L21-26;*

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-6860. The examiner can normally be reached on 10am - 6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571)272-6779.

/Evens J. Augustin/
Evens J. Augustin
April 28, 2009
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